

REMARKS/ARGUMENTS

Applicant respectfully requests reconsideration of this application in view of the above amendments and the following remarks.

1. Status of the Claims

Claims 1-27 are pending in this application.

Claims 1, 12, 18 and 20 have been amended to clarify the claimed subject matter, particularly with respect to structural features and elements of the pouring device and its use. New method claims 25-27 have been added.

Support for these amendments and new claims is found in the original specification at, for example:

Page 8, lines 15-16 and page 11, lines 1-32

Figure 5

No new matter has been added.

2. § 102/103 Rejections

a) 102(b) Rejections over Lee

Claims 1-3, 5-7, 10-12 and 18-24 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 5,799,836 to Lee ("Lee").

Applicant respectfully submits that Lee fails to disclose or suggest all the elements of any of the foregoing claims, for at least the reasons that follow.

Lee fails to disclose or suggest a pouring device as presently claimed, including "an air passageway ... extending longitudinally beyond the length of said lower portion" as recited in independent claim 1. Rather, the ventilating tube 16 as disclosed in Lee and equated with the currently claimed air passageway by the Examiner, does not extend beyond the length of the lower portion of the pouring device.

Furthermore, Lee fails to disclose or suggest a pouring device having a cylindrical body extending above and surrounding uniformly disposed apertures and an air passageway to permit sealing the apertures and the air passageway

by a cap insertable into the interior of the upper portion of the pouring device. Instead, Lee discloses a ventilating tube 16 and spout 15 in communication with a straining cup 30, the tube 16 and spout 15 extending above all elements of the device that are disposed radially outwardly of the tube 16 and spout 15, such that they can only be sealed by a cap that surrounds the exterior of the device, such as cap 20 having inner thread 23 to engage the outer thread of plug body 10. See, e.g., Figs. 1, 4, 5; col. 2, ln. 66 - col. 3, ln. 6.

Finally, Lee fails to disclose or suggest a pouring device having an air passageway, a portion of which is integrally formed with a filter, as required by amended independent claims 1, 18 and 20. To the contrary, Lee only discloses a straining cup 30 that is separate and removable from the part of the pouring device that includes ventilating tube 16. See, e.g., Figs. 1, 3; col. 3, lns. 30-36. As a consequence, straining cup 30 includes a flange 32 to contact the bottom of plug body 10 when straining cup 30 is fully inserted, and flange 32 has a curved shape to avoid blocking ventilating tube 16. This differs greatly from the present invention, wherein the filter is integral with the air passageway. This distinct aspect of the present invention renders unnecessary a stopping flange for terminating the insertion of the filter with a curved profile to avoid blocking the air passageway.

Nor does Lee teach or suggest the method of independent claim 20 as amended which integrally forms a pouring device including the cylindrical body with a filter, a V-shaped pour spout, cap and a strand connecting the cap to the stopper cylindrical body. Claims 25-27 further specify spout/strand spacings that are not taught or suggested by the prior art (90°, 120° and 180°). With respect to the other references, amended method claims 20 and 24-27 are not taught or suggested by Lee, alone or in combination with the other references. For example, Pham does not disclose a "strand" for connecting a cap to a stopper body as recited in claims 20 and 24-27. "Strand" as used in the present application and as illustrated in the Figures means "a fiber or filament." Pham certainly does not disclose such a connection of its cap to the body. It is noted

that hinges 50 and 312 of Pham are a thin, sheet-like member, not a strand, and certainly not an elongated strand as claimed in claims 20 and 24-27 that is relatively wide and very thin and very short. Nor does Pham disclose a spout or a V-shaped spout, rather, Pham merely discloses a fluid flow channel 304. It is noted that in Pham, what the Examiner says is "the spout 305 is a bottom opening 305." See Pham at col. 8, lines 36-38. ("The fluid flow channel 304 extends through the body 302 from a top opening 303 to a bottom opening 305.")

Therefore, by at least failing to disclose or suggest any of the foregoing elements, Lee fails to anticipate or render obvious any of the rejected claims.

b) 103(a) rejection over Lee in view of Hidding

Claim 4 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of U.S. Patent No. 4,078,700 to Hidding ("Hidding").

Applicant respectfully submits that neither Lee nor Hidding discloses or provides a reason for creating a pouring device according to the rejected claim, for at least the following reasons.

Hidding, like Lee, also fails to disclose a pouring device as presently claimed in independent claim 1, having an air passageway extending longitudinally beyond the length of a lower portion and a cylindrical body extending above and surrounding a plurality of uniformly disposed apertures of a filter and the air passageway, wherein a portion of the air passageway is integrally formed with the filter. In fact, Hidding has no disclosure or suggestion whatsoever of an air passageway or a filter.

For at least the foregoing reasons, Hidding wholly fails to resolve the above-stated deficiencies of Lee. Therefore, claim 4 is not anticipated or rendered obvious by either Hidding or Lee, whether considered alone or in combination.

c) 103(a) Rejections over Lee in view of Baxter

Claims 8 and 9 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of U.S. Patent No. 4,128,189 to Baxter ("Baxter"). Applicant respectfully traverses this rejection, for at least the reasons that follow.

Baxter, like Lee, also fails to disclose a pouring device as presently claimed in independent claim 1, having an air passageway extending longitudinally beyond the length of a lower portion and a cylindrical body extending above and surrounding a plurality of uniformly disposed apertures of a filter and the air passageway, wherein a portion of the air passageway is integrally formed with the filter. In fact, Baxter has no disclosure or suggestion whatsoever of a pouring filter having a plurality of uniformly disposed apertures or an air passageway having any appreciable longitudinal extent, let alone one integrally formed with the other as claimed. For at least these reasons, Baxter wholly fails to resolve the above-stated deficiencies of Lee with regard to claim 1, from which both claim 8 and claim 9 depend.

Moreover, regarding claim 9, Applicant respectfully asserts that Baxter column 3, lines 50-53 fails to disclose a visual indicator disposed on an outer surface of an upper portion of a cylindrical body for identifying the relative location of an air passageway with respect to the visual indicator, wherein the visual indicator comprises a marking having a color different from the color of said cylindrical body. Baxter only discloses that the insert 50, cover 70 and cap 74, each of them a cylindrical body unto itself, can be variously colored in order to harmonize with the color style of a container. In other words, Baxter does not disclose a marking on any one of the cylindrical bodies with a different color from that of the cylindrical body itself, but rather only that each cylindrical body may have its own color distinct from that of the other cylindrical bodies. This differs significantly from the present invention in that insert 50, cover 70 and cap 74 are all members that extend around the entire axis of the disclosed device; see Figure 3; and therefore the color of any one of them would not identify any particular relative location of an air passageway extending along its inner

periphery at a particular location. Moreover, the disclosure of Baxter only describes the coloring of the various components in ornamental terms; see, e.g., col. 2, ln. 67 - col. 3, ln. 2; col. 3, lns. 50-53; thus failing to provide any reason to color a portion of any one component with a different color than the rest of the component to actually mark a particular orientation. Thus, the cited passage does not disclose or provide a reason for a marking according to claim 9.

For at least the foregoing reasons, neither of claims 8 and 9 is obvious over Lee in view of Baxter.

d) 103(a) Rejections over Lee in View of Pham

Claims 13-17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of U.S. Patent No. 5,228,603 to Pham et al. ("Pham").


The reasons set forth in a) are applicable here, as Pham fails to supply the deficiencies of Lee. In particular, Pham fails to teach or suggest a pouring device as presently claimed, namely, a pouring device comprised of a cylindrical body with an upper cylindrical portion having a substantially circular interior cross-sectional shape, the cylindrical body extending above and surrounding uniformly dispersed apertures and an air passageway to permit sealing the liquid in the bottle from the atmosphere by a cap insertable into the interior of the upper portion to close both the apertures and the air passageway to the atmosphere, the apertures defining a pour opening extending substantially across an entire substantially circular cross section of the cylindrical body. Although Pham discloses a filter, Pham fails to disclose or provide a reason for a filter including a pour opening that extends across substantially an entire substantially circular cross section, as required by claim 1 as amended. Nor does Pham teach or suggest a spout and a "strand" or an "elongated strand" as claimed relating to the spout as disclosed previously with respect to claims 20 and 24-27. Therefore, Lee in view of Pham fails to render obvious any of the rejected claims.

Thus, for at least the foregoing reasons, Applicant respectfully asserts that current claims 13-17 are not obvious over Miller in view of Pham, and this rejection should be withdrawn.

CONCLUSION

In view of the foregoing, no single reference or combination of the cited references teaches, suggests or otherwise renders obvious, whether alone or in combination, the subject matter of claims 1-24. Applicant respectfully submits that all of the rejections have thus been overcome and claims 1-24, as amended, are in condition for allowance. Accordingly, an early indication of allowance is solicited.

Respectfully submitted,

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